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Education for the Disadvantaged: ESEA Title I Reauthorization Issues

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Education for the Disadvantaged: ESEA Title I Reauthorization Issues

SUMMARY

Title I of the Elementary and Secondary Education Act (ESEA) authorizes aid to local educational agencies (LEAs) for the education of disadvantaged children. Title I grants are used to provide supplementary educational and related services to low-achieving children attending schools with relatively high concentrations of pupils from low-income families.

The House has passed H.R. 2, a bill to extend and revise Title I, as well as H.R. 2300, permitting up to 10 states, and individual LEAs in other states, to administer Title I and other programs under a performance agreement, whereby most program requirements would not apply. On March 9, 2000, the Senate HELP Committee ordered S. 2, a bill with provisions similar to both H.R. 2 and H.R. 2300, to be reported. FY2000 appropriations legislation for the Department of Education requires LEAs to offer to pupils attending Title I schools in need of improvement the option to enroll in different public schools within the same LEA. On April 13, 2000, the House Committee on Education and the Workforce ordered to be reported H.R. 4141, which would allow states and LEAs to transfer funds from several other ESEA programs into, but not out of, Title I. Title I has detailed provisions regarding allocation of funds, selection of schools, fiscal accountability, pupil assessment, program improvement, and parental involvement, but there are very few constraints on LEAs in selection of curriculum and staff, instructional approach, and other major aspects of Title I programs. Title I is essentially a "funding mechanism," with encouragement, but no requirements, to employ any specific educational techniques or strategies.

Recent information on the effectiveness of Title I is based primarily on selected states and LEAs which have implemented standards-based reforms. While these results are generally positive, they may not be applicable to the program nationwide. Title I amendments adopted in 1994 attempted to improve effectiveness through greater targeting of funds on high poverty LEAs and schools; requiring states to adopt curriculum content and pupil performance standards, and assessments linked to these, for Title I students; a renewed focus on program improvement; and increased flexibility. The extent to which these major elements of the IASA have been implemented varies widely. An overarching question for reauthorization of Title I is whether the 1994 amendments are moving the program toward substantially increased effectiveness. More specific reauthorization issues include: (a) whether to continue supporting the application of standards-based reform concepts to Title I; (b) how to improve the coherence and effectiveness of activities to identify and disseminate information about effective practices, and provide incentives for adoption of these, while recognizing limits on federal influence and maximizing state and local flexibility; (c) whether increased flexibility is being used in ways that are increasing the achievement of disadvantaged pupils, and whether there is an appropriate balance between flexibility and associated accountability requirements; and (d) with respect to allocation of funds, what level of targeting of Title I funds on high poverty LEAs and schools is desirable, and what is the appropriate balance between use of the most up-to-date census data versus stability of grants to lower-growth states and LEAs.

MOST RECENT DEVELOPMENTS

On April 13, 2000, the House Committee on Education and the Workforce ordered to be reported H.R. 4141, the Education Opportunities to Protect and Invest in Our Nation's Students (Education OPTIONS) Act. Among other provisions, this bill would allow states and local educational agencies to transfer funds from several other Elementary and Secondary Education Act (ESEA) programs into, but not out of, ESEA Title I.

On April 12, 2000, the Senate Committee on Health, Education, Labor, and Pensions reported S. 2, the Educational Opportunities Act. This bill would extend the authorization for (ESEA) programs, amending Title I and authorizing two varieties of optional performance agreement/grant consolidation authority with major potential impact on Title I.

BACKGROUND AND ANALYSIS

Introduction

Title I, Parts A and E, of the ESEA authorize federal aid to local educational agencies (LEAs) for the education of disadvantaged children. Title I grants provide supplementary educational and related services to low-achieving children attending schools with relatively high concentrations of pupils from low-income families from pre-kindergarten through grade 12. Title I is the largest federal elementary and secondary education assistance program, with services provided to approximately: (a) 90% of all LEAs; (b) 45,000 (58% of all) public schools; and (c) 11 million (22% of all) pupils, including approximately 167,000 pupils attending private schools. Four-fifths of all participating pupils are in pre-kindergarten through grade 6, with only 5% of participants in grades 10 through 12. Title I was last reauthorized and substantially revised in 1994, by the Improving America's Schools Act, or IASA. For FY2000, the total funding for Title I, Parts A and E, is \$8.1 billion. The program is currently being considered for reauthorization by the 106th Congress.

This issue brief covers only Parts A and E of ESEA Title I. Part A of Title I, grants to LEAs, constitutes over 90% of total Title I funding, while Part E authorizes program evaluation and demonstration projects of innovative practices, including the Comprehensive School Reform Program. Other Parts of Title I authorize the Even Start program of joint services to young disadvantaged children and their parents (Part B), plus aid for the education of migrant (Part C) and neglected or delinquent youth (Part D).

Program Effectiveness

All of the *comprehensive* studies currently available on the effectiveness of Title I programs in improving the educational achievement of disadvantaged children are based primarily on the program as it existed *before* substantial changes incorporated in the 1994 amendments began to be implemented; therefore, these studies are of very limited relevance to the current program. The most current information on the achievement of Title I participants comes from ED's 1999 report, *Promising Results, Continuing Challenges: Final Report of the National Assessment of Title I*. This report examined recent achievement trends in six states, a separate group of 13 large urban LEAs, and a representative sample of high poverty schools serving 4th grade pupils. While the

results for high poverty schools are based on a nationally representative sample of such schools, the states and LEAs examined include only a selection of areas which have had standards-based reforms (curriculum content standards, pupil performance standards, and assessments linked to these) in place for at least 3 years. It cannot be assumed that results for these selected states and LEAs are representative of either current Title I performance nationwide or performance in all states and LEAs when they reach a similar stage of implementing standards-based reforms.

The major findings of the 1999 *National Assessment* report include the following:

- The average achievement of students in high-poverty elementary schools increased between 1995 and 1998 in 5 of 6 states in reading and 4 of 5 states in mathematics; The percentage of students in high-poverty elementary schools who met LEA or state performance standards in reading *and* mathematics increased between 1995 and 1998 in 6 of 13 large urban LEAs, and in reading *or* mathematics in 10 of these LEAs; and
- The average reading and mathematics achievement of a national sample of 9 year old pupils in high poverty schools increased between 1992 and 1996, but the 1996 achievement level in reading is no higher than in 1990.

When considering the effectiveness of Title I programs, it is important to note that while the aggregate effectiveness of Title I programs may be modest, a number of local programs are especially effective in serving disadvantaged children, and most of these are dependent on Title I funds. Further, it is very difficult for a supplementary program, such as Title I, to increase pupil achievement unless there are substantial improvements in pupils' *overall* instructional program, whether or not that schoolwide change is stimulated by Title I.

Since aggregate evaluation results combine local Title I programs with large differences in instructional methods and varying effectiveness, it may be more constructive to identify specific effective practices in Title I programs, rather than attempting to measure aggregate effects. The final report of ED's *Prospects* study, released in 1997, did attempt to identify effective practices. It found that high poverty schools that perform exceptionally well tend to have: Title I schoolwide programs that are based on well-implemented, comprehensive, and research-based school reform strategies; low rates of teacher and pupil mobility; very experienced principals; a balance of remedial and more challenging curriculum and instruction; and high levels of parent and community support and involvement.

Prospective Reauthorization Issues and Proposals

Legislation in the 106th Congress

Title I, Part A Amendments in H.R. 2, the Student Results Act. Major Title I, Parts A and E amendments in H.R. 2, as passed by the House, include the following:

Accountability, Corrective Action, and Incentives. The current Title I provisions regarding standards, assessments, and corrective action would be continued and expanded under H.R. 2. LEAs would be required to offer public school choice options, consistent with state and local law, policy, and practice, to pupils attending schools determined to be in need of improvement or who have been victims of violent crime at school. Current provisions

regarding “school performance profiles” would be expanded in new requirements for publication of state and LEA “report cards.” Assessments of pupils would require that pupils who have been enrolled in U.S. schools for at least 3 years would generally be conducted in the English language. Further, states would be required to adopt standards and assessments in science, in addition to reading/language arts and mathematics. In addition, states would be authorized to reserve 30% of future increases (over the preceding fiscal year) in their Title I grants for performance bonuses to especially effective Title I schools and teachers.

Teacher Aides. The requirements regarding use of Title I funds to hire teacher aides or paraprofessionals would be modified in three ways: (1) there would be a “freeze” on the number of aides which LEAs could hire with Title I funds — new aides could be hired, but only to replace aides who leave their jobs (except for LEAs in which all teachers are “fully qualified”); (2) aides newly-hired 1 year or more after the bill’s effective date, and all aides (except those employed as translators or for parental involvement activities) within 3 years, would be required to have completed at least 2 years of higher education, or to “have met a rigorous standard of quality that demonstrates, through a formal assessment, knowledge of, and the ability to assist in instructing, reading, writing, and math;” and (3) the instructional and other services which aides hired with Title I funds may provide would be broadly specified. The bill would also require each state receiving Title I funds to develop a plan under which all public school teachers must be “fully qualified” by December 31, 2003.

Allocation Formulas. With respect to the share of Title I, Part A funds to be allocated under the Basic, Concentration, and Targeted Grant allocation formulas, H.R. 2 provides that an amount equal to the FY1999 appropriation would be allocated under the Basic and Concentration Grant formulas (85% Basic Grants and 15% Concentration Grants). Next, any increases over the FY1999 appropriation for Part A would be allocated one-half under the Targeted Grant formula and one-half under the Basic and Concentration Grant formulas (again, 85% Basic Grants and 15% Concentration Grants). The ESEA currently provides that all increases over the FY1995 Part A appropriation are to be allocated as Targeted or Education Finance Incentive Grants, but this provision has been overridden by annual appropriations acts, and no funds have ever been provided for these formulas.

Other allocation formula provisions of H.R. 2 are the same as under current law, except:

- An 85% hold harmless rate would be applied to Concentration Grants for *all* LEAs, including those which do not meet that formula’s minimum thresholds of 6,500 or 15%; currently, the ESEA provides a hold harmless rate of 85-95% of previous year grants for Basic and Targeted Grants, but no hold harmless for Concentration Grants. The expenditure factor would be increased for Puerto Rico in stages to at least 85% of the minimum expenditure factor for the states (for FY1999, it is 71.5% of this minimum), but this provision would not be implemented if it would result in any state receiving less than its previous year grant.
- Provisions would be deleted for a fourth Part A allocation formula which is authorized, but not funded — Education Finance Incentive Grants. The current provision for reservation of \$5 million each year for the freely associated states (Palau, Federated States of Micronesia, and the Republic of the Marshall Islands) would be replaced, through FY2001 only, with a requirement for a similar amount to be distributed through a competition among these areas and other outlying areas.

Potential Impact of Formula Amendments in H.R. 2. The potential impact of these allocation formula changes would be small, and highly dependent on assumptions made about the provisions of future appropriations legislation. Two scenarios illustrate this point:

- Scenario A: No provisions in appropriations legislation which override the authorizing statute, combined with modest growth in total Part A funding. Scenario B: Continuation of recent (FY1998-1999) patterns of high (100%) hold harmless provisions for Basic and Concentration Grants to *all* LEAs, no funding for the Targeted or Education Finance Incentive Grant formulas, and modest growth in total Part A funding.

Under *Scenario A*, adoption of H.R. 2 would result in relatively small annual increases in grants to Puerto Rico, small reductions in grants to the highest poverty LEAs nationwide (due to the reduction in the share of “new” money to be allocated as Targeted Grants), significant increases in Concentration Grants to a relatively limited number of LEAs which were eligible for such grants in FY1998 but are no longer eligible, and virtually no change for other LEAs, in comparison to the grants these areas would have received under the current provisions of the ESEA *if* these also were not overridden by appropriations act provisions. However, under *Scenario B*, which may be more likely in the near term, there would be *virtually no change in grants to LEAs* if H.R. 2 were adopted, because the assumed provisions of the appropriations acts (the 100% hold harmless and failure to provide any funds for Targeted or Education Finance Incentive Grants) would either counteract, or already incorporate all, or virtually all, of the revisions in H.R. 2.

School Selection. In the selection of schools to conduct Title I programs, H.R. 2 would authorize LEAs to place priority on elementary schools, even among schools in the highest poverty (75%+ low-income pupils) category. Currently, LEAs may place priority on selected grade levels only among lower poverty (below 75%) schools. In addition, the enrollment size threshold for the exemption from school selection requirements would be increased from the current 1,000 pupils to 1,500 pupils. Finally, the low-income pupil percentage threshold for schoolwide program eligibility would be reduced from 50% to 40%.

Services to Private School Pupils. Title I provisions for services to eligible private school pupils would be revised to increase requirements for consultation between public and private school authorities over a variety of issues, including the selection of third party contractors to provide services. H.R. 2 would clarify rules for determining the share of LEA funds to be used to serve private school pupils. The bill would also authorize private schools to request from the Secretary of Education a “by-pass” of the LEA to provide these services if pupils in the private school who are served under Title I fail to make “satisfactory progress.” Finally, H.R. 2 would extend the authorization for “capital expenses” related to serving private school pupils only through FY2002.

Use of Funds for Administrative Costs. The bill would, for the first time, place a limit of 4% on the share of Title I grants which LEAs could use to pay administrative costs (and requires the Secretary of Education to define such costs). It also would provide that any increases in Title I funds for state administration over the FY1999 level must be provided through specific appropriations, not automatic reservations from state total Title I grants.

Other H.R. 2 Provisions. H.R. 2 would authorize the Comprehensive School Reform Program as Part E of Title I. The bill would require LEAs to obtain parental consent to the instructional methods used to teach English to limited English-proficient pupils in Title I

programs (unless instruction is “exclusively or almost exclusively” in English). Unlike previous Title I legislation, H.R. 2 does not provide for a national assessment of the program; this is expected to be included in a subsequent bill to reauthorize the Office of Educational Research and Improvement (OERI). Finally, H.R. 2 would apply to public schools receiving Title I grants a requirement which currently applies only to Title I instruction for private school pupils — that such instruction must be “secular, neutral, and nonideological.”

H.R. 2300, Academic Achievement for All Act (Straight A’s Act). Also on October 21, 1999, the House passed H.R. 2300, the Academic Achievement for All Act (Straight A’s Act). This proposal, sometimes referred to as “Super Ed-Flex,” combines elements of traditional block grants and the Ed-Flex program, under which SEAs may waive many requirements under several federal education programs. Overall, H.R. 2300 embodies a concept of *deregulation*, rather than the regulatory waiver concept embodied in the Ed-Flex program — under H.R. 2300, most federal program requirements *would be waived*, not just made *subject to* waiver. H.R. 2300 would authorize *up to 10 states, or individual LEAs in other states (if the state does not object)*, to administer one or more federal education programs under a *performance agreement*, whereby *no* requirements under the affected programs would apply, *except* those related to civil rights, participation of private school pupils and teachers, and certain fiscal accountability and Title I requirements regarding curriculum content and pupil performance standards plus assessments linked to these standards. *In participating states or LEAs, funds appropriated for Title I and other affected programs could be used for any educational purpose authorized under state law.*

Performance agreements under H.R. 2300 would cover a 5-year period, and would include state-established student performance goals incorporating increased performance by all pupil groups while reducing achievement gaps among pupils of different groups. State total grants would be determined under current allocation formulas, but funds could be allocated within states as determined by the state, except that if Title I, Part A is included, LEAs may not experience a reduction in grants under that program. Requirements regarding the allocation of funds to schools within LEAs, such as the Title I requirements to target funds on each LEA’s highest poverty schools, would no longer apply. States would be allowed to use up to 3% of total grants for administrative purposes (1% of the total if Title I, Part A is included). States and LEAs substantially meeting their performance goals would be eligible for an extension of their performance agreement; states failing to meet at least 50% of their goals would be subject to a 50% reduction in their federal program administrative funds. States which reduce by 25% or more the gaps between their highest and lowest scoring population groups in the percentage of pupils at the “proficient” level over the 5-year span of the performance agreement would be eligible for bonus funds.

Key aspects of H.R. 2300 include: (a) authority for participating states and LEAs to combine funds from Title I and other affected programs, and to use them for any educational purpose authorized under state law; (b) certain types of program requirements that cannot be waived under Ed-Flex, such as requirements regarding allocation of funds within states or LEAs, would be waived under H.R. 2300 (with the Title I minimum grant limitation); (c) outcome accountability requirements would be more specific than those under Ed-Flex, although still essentially defined by the states themselves; and (d) bonus grants would be authorized for states that reduce achievement gaps among different groups of pupils.

ESEA Title I Amendments in S. 2, the Educational Opportunities Act. Major Title I amendments in S. 2, as ordered to be reported on March 9, 2000, include the following:

Accountability, Corrective Action, and Incentives. Current Title I provisions regarding standards, assessments, and corrective action would be continued and expanded under S. 2. Provisions regarding “school performance profiles” would be expanded through requirements for annual performance reports on each school and LEA receiving funds under Part A. Schools or LEAs identified as needing improvement would be required to institute “research based instructional strategies.” SEAs and LEAs would be required to take at least 1 of a series of corrective actions with respect to schools or LEAs which do not improve after being identified as failing to meet adequate yearly progress standards. In addition, assessments in reading must be in English for pupils who have attended school in the United States for 3 or more years.

School Choice. As under H.R. 2, LEAs would be required to offer public school choice to pupils attending Title I schools which are identified as needing improvement or corrective action, as well as schools where violence has occurred. In addition, up to 10 states, plus up to 20 LEAs in other states, would be authorized to provide Title I aid to pupils in the form of *portable grants*. Title I funds received by a state or LEA, including additional incentive grants, would be distributed on a per pupil basis. Parents of the pupils who are eligible to receive these grants would be allowed to use them to procure supplementary educational services at a public school or a tutorial services provider. For details on this concept, see CRS Report RL30372, *ESEA Title I “Portable Grant” Proposals: Background and Issues*.

Allocation Formulas. S. 2, the Educational Opportunities Act, was ordered to be reported by the Senate Committee on Health, Education, Labor, and Pensions on March 1, 2000. S. 2 would make only a small number of changes to the Title I, Part A allocation formulas. S. 2 provides that an amount equal to the FY2000 appropriation would be allocated under each of the Basic and Concentration Grant formulas, and any increases over the FY2000 appropriation for Part A would be allocated under the Targeted Grant formula. However, S. 2 also provides that 50% of any Part A appropriations in excess of \$8,076,000,000 would be reserved for a separate allocation to the states to be used for program improvement and corrective action with respect to schools or LEAs not meeting state standards of adequate yearly progress. These program improvement/corrective action grants would be allocated to states on the basis of the Basic Grant formula, but with an increased state minimum of 0.5% (rather than up to 0.25%). There would be no allocation formula for distribution of these funds within states. (If Part A appropriations are less than \$8,076,000,000, then the current law authority for states to reserve up to the greater of 0.5% of grants, or \$200,000, for program improvement activities would apply.)

Combining these provisions, the share of Part A grants to be allocated as Targeted Grants under S. 2 (by implication, 50% of appropriations above \$8,076,000,000, plus 100% of the difference between FY2000 Part A appropriations and \$8,076,000,000, which is \$122,603,000) is similar to that under H.R. 2 (50% of appropriations above FY1999), but much less than under current law (all appropriations above FY1995) or the Administration proposal (the greater of all appropriations above FY1995 or 20% of total Part A appropriations). For example, if the total FY2001 appropriation for Part A were to be \$8,200,000,000, then the amount to be allocated as Targeted Grants would be \$184.6 million under S. 2, \$123.3 million under H.R. 2, \$1,640.0 million under the Administration proposal, and \$1,432.7 million under current law.

S. 2 also provides that a hold harmless rate of 85-95% of previous year grants, now applicable to Basic Grants (and the unfunded Targeted Grant formula), would be applied to Concentration Grants. Like H.R. 2, it would apply to all LEAs, not just those which currently

meet the eligibility criteria for each formula, except that if a LEA fails to meet such criteria for 5 successive years, then the hold harmless would no longer apply. The Education Finance Incentive Grant formula would be retained, with a separate authorization of \$200 million for FY2001. The final S. 2 amendment regarding the allocation of funds to states and LEAs is identical to the H.R. 2 provision (described above) regarding grants to the freely associated states and outlying areas. Regarding school selection, the only amendment in S. 2 would allow LEAs to provide Title I grants to schools which were eligible for, and received grants, in the preceding year, even if they are not eligible in the current year.

Potential Impact of Formula Amendments in S. 2. As with H.R. 2, the potential impact of these allocation formula changes would be small, and highly dependent on assumptions made about the provisions of future appropriations legislation. Referring to Scenarios A and B, as described above with respect to H.R. 2 — under *Scenario A*, adoption of the allocation formula provisions of S. 2 would result in small reductions in grants to the highest poverty LEAs nationwide (due to the reduction in the share of “new” money to be allocated as Targeted Grants), significant increases in Concentration Grants to a relatively limited number of LEAs which were eligible for such grants in FY1998 but are no longer eligible, and virtually no change for other LEAs, in comparison to the grants these areas would have received under the current provisions of the ESEA if these also were not overridden by appropriations act provisions. However, under *Scenario B*, there would be *virtually no change in grants to LEAs* if S. 2 were adopted, because the assumed provisions of the appropriations acts (the 100% hold harmless and failure to provide any funds for Targeted or Education Finance Incentive Grants) would either counteract, or already incorporate virtually all, of the revisions in S. 2.

School Selection and Schoolwide Programs. S. 2 would allow LEAs to provide Title I grants to schools which were eligible for, and received grants, in the preceding year, even if they are not eligible in the current year. This authority, which would be available for only 1 year, was provided in Title I previous to the 1994 amendments. In addition S. 2 would reduce the eligibility threshold for schoolwide programs from 50% in general to 40%.

Services to Private School Pupils. As under H.R. 2, the Title I provisions for services to eligible private school pupils would be revised to increase requirements for consultation between public and private school authorities over a variety of issues, including the selection of third party contractors to provide services, and to clarify rules for determining the share of LEA funds to be used to serve private school pupils. The bill would also authorize the Secretary of Education to take into consideration the “quality, size, scope, or location” of Title I services provided by a LEA to private school pupils when deciding whether to institute a “by-pass” of the LEA to provide these services. Finally, S. 2 would extend the authorization for “capital expenses” related to serving private school pupils through FY2003.

Parental Involvement. States would be required to collect information on effective parental involvement practices and disseminate this information to schools and LEAs. The Parental Information and Resource Center Program, authorized through FY2000 under Title IV of the Goals 2000: Educate America Act, would be added to Title I as Part D.

Other S. 2 Provisions Regarding Title I. The Comprehensive School Reform Program would be authorized as Title I, Part E. Title I provisions for services to prekindergarten age children would be expanded under S. 2. Finally, S. 2 would authorize the appropriation of \$15 billion for Title I, Part A for FY2001.

Optional Performance Partnerships/Grant Consolidation. S. 2 provides **two different authorities** under which federal education program requirements may be eliminated in return for outcome-based accountability. *First*, the bill includes a “Straight A’s” authority which is essentially the same as that of H.R. 2300, as passed by the House (see above), except that it would be available in up to 15 states (rather than 10). *Second*, S. 2 includes a somewhat less flexible “Education Performance Partnerships” optional grant consolidation authority, which differs from that under H.R. 2300 (or the first authority in S. 2) in the following respects: (a) there would be no limit on the number of states which could participate; (b) current ESEA Title I, Part A allocation formulas would continue to be applied in the distribution of these funds to LEAs (rather than H.R. 2300’s more limited Title I, Part A LEA hold harmless provision); (c) the current statutory provisions would generally apply in the allocation of Title I, Part A funds to schools within LEAs, except that the degree of flexibility in this process which is now allowed in Ed-Flex states would be provided to participating states; (d) the Safe and Drug-Free Schools program and the Carl D. Perkins Vocational and Applied Technology Education Act would not be subject to consolidation under performance partnership agreements; (e) all states, not just those participating in the grant consolidation option, would be eligible for “closing the achievement gap bonus awards,” for which \$2.5 billion would be authorized, in addition these awards would be based on state performance gains on NAEP tests, not varying state assessments, and would go to states where the gap between the average scores of low-income and other students is reduced to a greater degree than for the nation as a whole; (f) the Governor is specified as the state official who would decide whether a state is to participate in this option (H.R. 2300 refers only to the “state”); (g) provision is made for negotiations between the Secretary of Education and applicant states over the conditions for proposed state participation in this option, including peer review of state applications; (h) all current law provisions with respect to services for pupils and staff of private schools would continue to apply, while H.R. 2300 would replace many of these with a simpler requirement “for the equitable participation of students and professional staff in private schools, “and due to this and other reasons, it is unlikely that funds could be used for private school vouchers); (i) an illustrative list of purposes for which funds may be used is provided, which includes “constructing schools” and “supporting special education,” but does not include H.R. 2300’s broad statement that funds may be used for “any elementary and secondary educational purposes permitted by State law;” (j) participating states would be required to comply with current requirements regarding fiscal accountability and parental involvement; (k) states that do not include ESEA Title I, Part A in their performance partnership agreements would be allowed to use a higher share of grants for administration (approximately 5% versus 3% under H.R. 2300); and (l) a written performance review would be prepared for each participating state at the end of 3 years.

H.R. 4141, the Education Opportunities to Protect and Invest in Our Nation’s Students (Education OPTIONS) Act. On April 13, 2000, the House Committee on Education and the Workforce ordered H.R. 4141 to be reported. Among other provisions, this bill contains authority for states and LEAs to transfer funds among selected ESEA programs. The programs affected by the authority are the ESEA state-administered formula grant programs, except that funds may only be transferred into, and not away from, ESEA Title I, Part A. States may transfer all of the program funds over which they have authority, except for administrative funds. LEAs may transfer up to 35% of funds they receive without obtaining state permission, and all funds under such programs if their state approves.

FY2000 Appropriations Act for ED, P.L. 106-113. On November 29, 1999, the President signed into law P.L. 106-113, FY2000 appropriations legislation for ED and several other federal agencies. P.L. 106-113 requires LEAs to offer to pupils attending public

schools determined to be in need of improvement, under the accountability provisions of Title I, the option to enroll in different public schools within the same LEA (unless it is not possible, consistent with state and local law, to offer such choice options to all eligible pupils).

Clinton Administration Proposal. The Clinton Administration's reauthorization proposal for the ESEA and related legislation, the Educational Excellence for All Children Act (EEACA), was introduced as H.R. 1960 and S. 1180. For Title I, the EEACA would support full implementation of the 1994 amendments regarding standards, assessments, and program improvement. In addition, the Administration's bill would:

- attempt to increase the share of funds provided to high poverty LEAs by providing that at least 20% of Title I funds must be allocated under the Targeted Grant formula, and increasing funds allocated to Puerto Rico; address concerns about the quality of teachers and other resources in Title I schools by requiring newly-hired Title I teachers to be fully certified in the subjects they teach, prohibiting teacher aides with less than 2 years of postsecondary education from providing instructional services, requiring that a minimum share of Title I grants be reserved for professional development, and expanding Title I/non-Title I school comparability requirements to encompass such matters as pupil-teacher ratios, teacher qualifications, curriculum, range of courses, instructional resources, condition of school facilities, and access to technology;
- increase the program improvement reservation of funds from 0.5% to 3.5%;
- encourage, but not require, increased use of comprehensive school reform and extended learning time strategies; require assessments in reading to be conducted in English for pupils who have been in U.S. schools for at least 3 years;
- extend the Reading Excellence Act as Part E of Title I; and
- regarding private school pupils, require inclusion of their parents and teachers in parental involvement and professional development, expand consultation, and eliminate the "capital expenses" authorization.

In addition, under a separate but related "Education Accountability Act," the EEACA would require all states and LEAs receiving funds under *any* ESEA programs to: (a) end "social promotion" — i.e., establish policies under which all pupils would have to meet academic performance standards before promotion to selected grades; (b) identify, assist, and take corrective action with respect to low-performing public schools; (c) provide that at least 95% of all public school teachers are fully certified; (d) publish report cards, with information on such topics as pupil achievement and teacher qualifications, on each school, LEA, and state; and (e) adopt pupil discipline policies with specific characteristics.

Standards and Assessments

The IASA required states participating in Title I to develop or adopt curriculum content standards, pupil performance standards, and assessments linked to these, at least in the subjects of mathematics and reading/language arts. In general, these standards must be applicable to Title I participants, as well as all other pupils in the state. These requirements were adopted in part to raise expectations that Title I participants would be required to meet challenging academic standards, and to link the program to standards-based reforms taking place in most states. Typically, such standards-based reform involves the establishment of explicit and "challenging" goals for state school systems, and alignment of curricula,

assessment methods, pupil performance standards, teacher professional development, instructional materials, and other school system policies in support of the goals.

The deadline for adopting content and performance standards was the 1997-1998 program year, and for assessments is the 2000-2001 program year. States were given several years to meet these requirements because many of them were at an early stage of standards-based reform in 1994. Nevertheless, approximately one-half of the states did not meet the fall 1997 deadline for establishing content and pupil performance standards. As of March 2000, 48 states met the content standards requirement and 25 met the pupil performance standards requirement; the remaining states have obtained temporary waivers from the Secretary of Education. At least two states are finding it difficult to set *statewide* standards for all pupils in all LEAs, and are attempting to develop hybrid systems that rely ultimately on state guidelines for locally-selected standards. It should be emphasized that in reviewing these standards, ED is not considering their substance, but only the procedures by which they were developed or adopted by the states. States which have not yet adopted assessments linked to their content standards are using a variety of transitional assessments, to which only limited requirements apply, to evaluate the performance of pupils being served by Title I.

While the Title I standards requirements *are* being implemented, and states are continuing to adopt standards-based reform strategies in general, the pace at which benchmarks have been met is slower than specified in the IASA, and it is not yet possible to determine whether this strategy will improve the achievement of disadvantaged pupils.

Program Improvement and Technical Assistance

The IASA expanded previous Title I program improvement provisions, requiring each participating school and LEA to conduct an annual review of its Title I program, applying state standards for “adequate yearly progress” by pupils and schools. Title I schools that are especially successful may be designated as “distinguished schools,” while Title I schools or LEAs that do *not* meet state standards of adequate progress are to be identified as needing “program improvement.” Eventually, if the performance of a school or LEA receiving Title I grants does not improve, LEAs or SEAs would be required to take “corrective actions,” consistent with state and local law; however, this requirement does not go fully into effect until states adopt final assessments, so these provisions have *not* yet been implemented.

The IASA also included provisions intended to provide technical assistance on effective practices, especially for schools or LEAs identified as needing improvement. These include the authorization for states to reserve 0.5% of their Title I funds for program improvement grants, consolidation of regional technical assistance centers, school support teams and “distinguished educators” designated by the states, plus regional laboratories and research and development centers funded by the OERI. Concern has been expressed about the resources available to technical assistance providers and the effectiveness of their services.

Questions for Title I reauthorization include how to better identify and disseminate information about effective practices; and how to provide incentives for adoption of effective practices while maximizing state and local flexibility in carrying out Title I programs. There is sharp conflict between the desire to encourage the adoption of effective practices in Title I, and the equally strong desire to maintain and possibly increase state and local flexibility.

Schoolwide Programs and Other Forms of Flexibility

One of the most distinctive changes in Title I since 1994 has been the rapid growth of schoolwide programs. Schoolwide programs may be viewed both as a mechanism to increase Title I's focus on comprehensive schoolwide reform in high poverty schools, and as an example of increased flexibility at the school level. The IASA reduced the eligibility threshold for schoolwide programs from 75% to 50% low-income pupils in general. The IASA also allows the use of funds under most federal aid programs, not just Title I, on a schoolwide basis, if basic program objectives and fiscal accountability requirements are met.

The rationale for limiting schoolwide program authority to relatively high poverty schools is that: (a) in such schools, *all* pupils are disadvantaged, so most pupils are in need of special assistance, and it seems less equitable to select only the lowest-achieving pupils to receive Title I services, and (b) the level of Title I grants should be sufficient to meaningfully affect overall school services in high poverty schools, since these funds are allocated on the basis of the number of low-income pupils in these schools. Thus far, there is little direct evidence of the achievement effects of this expansion of schoolwide programs.

Waivers and Ed-Flex. In addition to schoolwide programs, legislation adopted in 1994 and subsequently has authorized waivers of many Title I statutory and regulatory requirements — case-by-case waiver authority exercised directly by the Secretary of Education (ESEA Title XIV, Part D), and the delegation of waiver authority to SEAs under Ed-Flex. A large majority of these waivers have applied to requirements under Title I. Under the waiver authority exercised directly by ED, approximately one-half of the approved requests were for waivers of the Title I school selection requirements, and an additional one-fourth were to waive the minimum low-income pupil percentage for schoolwide program eligibility. The third major category of waivers granted by ED was for the requirement that SEAs adopt curriculum content and pupil performance standards for Title I programs. As for the Ed-Flex states, waivers of the minimum percentage of pupils from low-income families for schoolwide programs accounted for about two-thirds of all programmatic waivers granted by SEAs thus far. Recent amendments to Ed-Flex (P.L. 106-25) limit the ability of states to waive requirements regarding Title I school selection.

Proponents of the flexibility authorities argue that most of the schools affected have been only marginally below the standard thresholds for eligibility for Title I participation or schoolwide programs. In addition, supporters of increased flexibility argue that waivers can remove federal regulatory barriers to local reform and initiative. However, some question the value of increased flexibility if it is used largely to expand schoolwide program eligibility or to postpone deadlines for adoption of standards. In addition, while schoolwide programs offer a great deal of flexibility to use funds under not only Title I but also most other federal programs in ways that might not ordinarily be allowed, an issue arises as to whether schools with relatively low percentages of low-income pupils need or should have such flexibility.

Optional Performance Partnership/Grant Consolidation Proposals. These proposals in H.R. 2300 and S. 2, described above, would provide much greater levels of flexibility in state and LEA use of Title I funds than under any current authority, in return for new forms of outcome-based accountability for the state overall. A major difference between the two current varieties of this type of proposal is in the degree of flexibility provided to states in the allocation of Title I funds within states and LEAs. Nevertheless, both versions would give eliminate a very wide variety of requirements under Title I and other affected

programs, while holding the states as a whole (not just LEAs and schools) responsible for meeting state-determined performance goals.

Questions for Title I reauthorization regarding flexibility provisions include whether the current flexibility authorities are being used in ways that are increasing the academic achievement of disadvantaged pupils; whether the accountability requirements of current or proposed authorities are consistent with the increased flexibility; and whether there should be any change in the 50% eligibility threshold for schoolwide programs.

Greater Targeting of Funds on High Poverty LEAs and Schools, and Other Allocation Formula Issues

A number of studies have found that the poverty of a child's family is much more likely to be associated with educational disadvantage if the family lives in an area with large concentrations of poor families. The major elements of the IASA's strategy to increase the targeting of Title I grants included: (a) funding of the pre-existing Basic and Concentration grant formulas up to the FY1995 appropriation level, then use of a new Targeted Grant formula to allocate a share of appropriations in excess of the FY1995 appropriation, (b) use of updated population data, (c) calculation of grants nationwide by LEA, rather than by county, beginning in FY1999, and (d) a shift of funds toward the highest poverty schools within LEAs. However, the only major allocation changes provided in the IASA that have actually been implemented are: (a) partial application of the Census population updates; (b) calculation of grants by ED on the basis of LEAs beginning in FY1999; and (c) somewhat increased targeting of funds on high poverty schools within LEAs.

Grants to LEAs. Greater targeting of funds on high poverty LEAs was to be accomplished through use of a new Targeted Grant formula to allocate a share of post-FY1995 increases in Title I appropriations. The distinctive feature of this formula, in contrast to other Title I formulas, is that it would provide increased grants *per poor child* as the percentage or number of poor children in a LEA increases, reflecting an assumed increasing educational disadvantage associated with family poverty when poverty is concentrated in a locality. This was to be combined with a shift to calculating Title I grants by LEA, rather than by county, to better pinpoint high poverty LEAs wherever they may be located. However, while the calculation of grants by LEA will occur for the 1999-2000 school year, subsequent appropriations acts have prevented use of the Targeted Grant formula, as well as a second new allocation formula adopted in 1994 that would reward states with relatively low expenditure disparities among their LEAs. This experience with the Targeted Grant formula reflects the historical difficulty of providing funding for Title I formulas that substantially focus funds on high poverty areas. Further, it has proven to be very difficult to effect significant changes of any kind in the Title I formulas, particularly ones that would lead to losses for any LEAs.

Population Updates. Better targeting of Title I grants on regions of the Nation with the highest rate of growth in poor school-age children was to be accomplished through use of updated population estimates for states, counties, and LEAs made available through a new Census Bureau program, if the data were deemed reliable by the Secretaries of Education and Commerce, as well as a National Academy of Sciences panel. This provision of the IASA has been implemented, although its effects have thus far been highly constrained by supplemental appropriations provided in FY1997, and 100% hold harmless provisions for both Basic and Concentration Grants in the FY1998 and FY1999 appropriations acts. These were adopted in reaction to the unexpected scale and regional shifts in the first set of population updates,

as well as an apparent pattern of declines in share of poor school-age children for a number of high poverty states and counties. It was generally anticipated that the regional population shifts reflected in the updates would be similar to those between the 1980 and 1990 Census, and be relatively modest in scale. In contrast, the shifts have been relatively large, and for such regions as the northeast or the intermountain west have been opposite in direction from the 1980-1990 shifts.

School Selection. The IASA contained 3 provisions intended to focus funds within LEAs more on high poverty schools. First, while LEAs still have discretion, in general, to select the grade levels at which Title I services are offered, they are required to provide Title I services to any school, *no matter its grade level*, with a low-income pupil rate of 75% or more. A second set of amendments raised the low income pupil rate at which a school may be “automatically” selected for Title I from 25% to 35%, and deleted some options for school selection which had facilitated the spread of funds among schools in some LEAs. Third, the IASA also requires LEAs to allocate Title I funds among eligible schools solely on the basis of pupils from low income families, and specifies a minimum grant per low income child to each school. These amendments were intended to result in greater concentration of funds on each LEA’s highest poverty schools. These provisions have been implemented in most LEAs, and as a result the percentage of high poverty schools receiving Title I grants has increased substantially, while the percentage of low poverty schools participating in the program has declined. However, in a number of LEAs this shift toward higher poverty schools has been constrained through the granting of waivers allowing the continuation of grants to relatively low poverty schools that otherwise would be dropped from eligibility.

In spite of this modest increase in intra-LEA targeting, many schools with high poverty rates continue to face severe difficulties, and there is continuing interest in providing more intensive assistance to these schools. Reauthorization issues with respect to targeting of Title I grants include: What level of increased targeting on high poverty LEAs is appropriate *and* feasible to implement? What is the appropriate balance between use of the most up-to-date Census data versus stability of grants to lower-growth states and LEAs? Have the IASA’s efforts to increase targeting *within LEAs* provided sufficient funds to meet the severe needs of schools with very high concentrations of poor pupils? Should application of the population updates be highly constrained by hold harmless provisions in appropriations acts?

Other Allocation Formula Issues. Due to the expenditure factor in the current allocation formulas, high spending states receive up to 50% more per poor school-age child than low spending states. The rationale for this factor is that it reflects differences in the cost of providing public education, and provides an incentive to increase spending. However, it is a spending index, not a cost index (no specific cost index is available); it reflects ability and willingness to spend on public education as well as cost differences; it is crude (affecting all LEAs in a state equally); and the incentive it provides to increase state and local spending for public education is relatively small. Major alternatives include either eliminating the factor or substituting a different expenditure factor, such as average teacher salaries.

Cost adjustment issues also have been raised regarding the federal poverty income thresholds. A 1995 National Academy of Sciences study (*Measuring Poverty: A New Approach*) recommended that the standard federal poverty measure incorporate a local cost of living adjustment, based initially on variation in housing costs, and take into consideration some of the benefits received by low-income families. Bills has been introduced (S. 165 and H.R. 1902) to require application of cost-of-living adjustments to the poverty income

thresholds. Some have argued that the expenditure factor may be considered to be a cost of living adjustment for the poverty thresholds, albeit a very indirect one.

Other Reauthorization Issues

School Choice and Title I. Provisions for use of Title I funds to expand school choice options are currently limited. While funds are allocated on the basis of numbers of poor children, Title I is structured as a “school aid” program, focused on serving *concentrations* of disadvantaged pupils, not an “individual pupil aid” program. Under H.R. 2 and S. 2, LEAs would be required to offer public school choice options to pupils attending schools in need of improvement or who have been victims of violent crime at school. In addition, P.L. 106-113 requires states and LEAs to provide to pupils attending schools identified as performing inadequately the option of attending other public schools not so identified, unless it is impossible, consistent with state and local law, to accommodate all transfer requests.

In addition, S. 2 would allow a limited number of states and LEAs to convert Title I into a *portable grant* that might be used to obtain supplementary services at any public school or tutorial services provider chosen by a family. Such proposals require reconsideration of many aspects of Title I as it currently operates, such as pupil eligibility criteria or requirements for participating schools. (See CRS Report RL30372, *ESEA Title I “Portable Grant” Proposals: Background and Issues*.)

Teacher Aides. Aides constitute approximately one-half of the staff hired with Title I funds, and are especially prevalent in many high poverty LEAs and schools. Aides whose salaries are paid with Title I funds provide a variety of instructional and non-instructional services in both schoolwide and targeted assistance programs. Some have criticized the performance of instructional duties by aides who often lack educational credentials and sometimes receive little supervision from classroom teachers. Others have questioned the appropriateness of using Title I funds to pay aides who perform duties which are not directly related to instruction. The IASA required teacher aides funded under Title I to be directly supervised by teachers, and in general to have a high school diploma or equivalent within 2 years of employment. At issue is whether the share of Title I funds used to hire aides and/or the authorized activities of those aides should be limited, the required credentials of aides should be increased, or career ladder programs be encouraged so that more of them might become qualified for instructional responsibilities.

Uses of Title I Funds. The level and purposes for which funds are used has been raised as an issue with respect to Title I. In terms of the level of government, the vast majority of Title I funds (98%) are used at the LEA level. However, evidence on the uses of Title I funds within LEAs is not complete, mainly because many expenditures cannot be unambiguously identified as either “administration” or “direct instruction,” and inconsistent categories have been used in different evaluations. The latest estimates provided by ED indicate that approximately 8% of Title I grants to LEAs is used for administration.

LEGISLATION

P.L. 106-25, H.R. 800, (Castle, *et al.*)

Education Flexibility Partnership Act of 1999. Signed into law April 29, 1999.

P.L. 106-113, H.R. 3194 (Istook, *et al.*)

Consolidated Appropriations Act for FY2000. Signed into law November 29, 1999.

H.R. 2 (Goodling, *et al.*)

Student Results Act. Passed by the House October 21, 1999.

H.R. 2300 (Goodling, *et al.*)

Academic Achievement for All Act (Straight A's Act). Passed by House October 21, 1999.

H.R. 4141 (Goodling, *et al.*)

Education Opportunities to Protect and Invest in Our Nation's Students (Education OPTIONS) Act. Ordered to be reported by the Committee on Education and the Workforce April 13, 2000.

S. 2 (Jeffords, *et al.*)

Educational Opportunities Act. Ordered to be reported by the Committee on Health, Education, Labor, and Pensions March 9, 2000.

S. 1677 (Gregg and Hagel)

This bill would amend ESEA Title I, Part A, to authorize the provision of aid in the form of "child-centered" or "portable" grants. Similar provisions incorporated into S. 2, as ordered to be reported.

S. 2254 (Lieberman, *et al.*)

Public Education Reinvestment, Reinvention, and Responsibility Act (Three R's) Act. This bill would extend and modify the Title I authorization. Introduced March 21, 2000; referred to the Committee on Health, Education, Labor, and Pensions.

FOR ADDITIONAL READING

CRS Report RS20311, *Comprehensive School Reform Program: Background and Issues*, by Wayne Riddle.

CRS Report RL30492, *Education for the Disadvantaged: Allocation Formula Issues in ESEA Title I Reauthorization Legislation*, by Wayne Riddle.

CRS Report 94-968, *Education for the Disadvantaged: Analysis of 1994 ESEA Title I Amendments Under P.L. 103-382*, by Wayne Riddle.

CRS Report RL30491, *Education for the Disadvantaged: ESEA Title I Allocation Formula Provisions*, by Wayne Riddle.

CRS Report 95-963, *Education Finance Incentive Grant Under ESEA Title I*, by Liane White.

CRS Issue Brief IB98013, *Elementary and Secondary Education Block Grant Proposals in the 106th Congress*, by Wayne Riddle and Paul Irwin.

CRS Issue Brief IB98047, *Elementary and Secondary Education: Reconsideration of the Federal Role by the 106th Congress*, by Wayne Riddle, James Stedman, and Paul Irwin.

CRS Report RL30372, *ESEA Title I "Portable Grant" Proposals: Background and Issues*, by Wayne Riddle.

CRS Report 98-824, *Even Start: Background and Issues*, by Wayne Riddle.

CRS Report 98-676, *Federal Elementary and Secondary Education Programs: Ed-Flex and Other Forms of Flexibility*, by Wayne Riddle.

- CRS Report 98-945, *The Federal Migrant Education Program: An Overview*, by Patricia Osorio-O'Dea.
- CRS Report 97-848, *The Implications of Agostini v. Felton for the Provision of Title I Assistance to Nonpublic School Children*, by David Ackerman and Wayne Riddle.
- CRS Report 97-972, *Reading Instruction: New Federal Initiatives*, by Wayne Riddle.
- CRS Issue Brief IB98035, *School Choice: Current Legislation*, by Wayne Riddle and James Stedman.
- CRS Report 96-82, *Title I, Education for the Disadvantaged: Perspectives on Studies of Its Achievement Effects*, by Wayne Riddle.
- CRS Report 96-380, *Title I, Elementary and Education Act: Current Status and Issues*, by Wayne Riddle.